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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR
(C.G.)

WRIT PETITION NO. 1920/2004 ✓

PETITIONER

Digambar Patel, aged about 35 years, son of Shri Kanti Kumar Patel, resident of Rohini Puram, Near Main Gate, Raipur (Chhattisgarh)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through, the Secretary, Department of Aadim Jati Evam Anusuchitjati Vikas, Dau Kalyan Singh Bhawan, Raipur, Chhattisgarh.
2. The Commissioner, Department of Aadim Jati Evam Anusuchit Jati Vikas, Raipur (C.G.)
3. Asst. Commissioner, Office of the Commissioner, Aadim Jati Evam Anusuchitjati Vikas, Raipur (C.G.)
4. The Drawing and Disbursing Officer, Office of the Commissioner, Aadim Jati Evam Anusuchit Jati Vikas, Chhattisgarh, Raipur.
5. The Director, Aadim Jati Evam Anusuchit Jati Vikas, Chhattisgarh, Raipur.

P. R. No. 1920/2004
Presented by Shri. Digambar Patel
dated 1.7.04

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7.7.04
Clerk to A G. Bilaspur



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WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN
THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR
APPROPRIATE ORDER / ORDERS, DIRECTION /
DIRECTIONS.

मामला क्रमांक W.P. 1920/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<u>30-11-2004</u>	
	On a mention being made, the case is taken up for hearing.	
	Smt. Fouzia Mirza, counsel for the petitioner.	
	Shri Sumesh Bajaj, Deputy Govt. Advocate for the State.	
	The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the correctness of the order dated 25th/28th-6-2004 (Annexure-P/9) whereby the petitioner has been reverted from the post of Grade-III on the ground that he was wrongly promoted as Assistant Grade-III from the post of Peon.	
	The petitioner's case is that initially vide order Annexure-P/1 he was appointed as 'Farras cum Chowkidar' on 12-9-1991. Thereafter vide Annexure-P/2 dated 7-12-1991 his services were regularized. Vide order Annexure-P/3 dated 6-1-1994 he was appointed on the post of Peon, Grade-IV in the pay scale of Rs.750-12-870-15-945 and was posted at Adivasi Ashram Amlideeh (Sakti). Thereafter, provisional seniority list of the peon was published, vide Annexure-P/6, on 29-7-2003, as on 1-4-2003, in which the petitioner's seniority was fixed at Sr.No.14. Thereafter on the basis of the above seniority, the petitioner was promoted vide order Annexure-P/7 dated 6-10-2003 on the post of Assistant Grade-III in the pay scale of Rs.3050-75-3950-80-4590. Vide Annexure-P/8 dated 5-6-2004 the	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - २ -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	petitioner's seniority was fixed at S. No.26. However, all of a sudden without affording opportunity of hearing or allowing any representation vide impugned order dated 25th/28th-6-2004 the petitioner has been reverted, therefore, the impugned order be quashed. Reply has been filed on behalf of the respondents in which it has been mentioned that initially the petitioner was appointed as contingency paid employee as Sweeper-cum-Watchman on 12-9-1991 and vide order dated 7-12-1991 his services were continued until further orders. On 6-1-1994, the Departmental Screening Committee after considering the case of the petitioner, found him eligible for regularization and accordingly he was regularized on the post of Peon. However, while considering the case of the petitioner for regularization, the Screening Committee committed a mistake considering that the appointment of the petitioner was on 27-2-1986. Therefore, he is entitled for regularization. As per the policy of the Government there was a ban on regularizing a contingency employee who was appointed after 31-12-1988. Thus, the Screening Committee wrongly considered the petitioner as appointee of 1986, whereas, the petitioner himself has admitted in the petition that he was appointed on 12-9-1991 and regularized on 6-1-1994. After re-organization of the State in the year 2000, the petitioner was in the State of	

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मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Chhattisgarh and the seniority was assigned to him. In the year 2003, the Departmental Promotion Committee found fit the petitioner and recommended his name for promotion on 6-10-2003, thereafter, the Department received several complaints regarding promotion of the petitioner and on enquiry certain irregularities came to the notice, therefore, the Commissioner/respondent No.2 passed the impugned order. I have heard learned counsel for the parties. It is an admitted position that before passing the impugned order, the petitioner was not afforded opportunity of hearing or making any representation or no show cause notice was given to the petitioner. Even copy of the order whereby the Government imposed ban that the employees appointed after 31-12-1988 was not to be regularized has not been placed on record. Even no record has been placed before the Court showing that the petitioner was promoted considering that the petitioner is appointee of 1986. Before passing the impugned order, the respondents ought to have given opportunity to the petitioner that how the promotion order was illegal or contrary to the record. Therefore, only on the ground of principle of natural justice, the impugned order is liable to be quashed. For this view, I am fortified by the judgment of the Hon'ble Apex Court in the	

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मामला क्रमांक

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	matter of Ram Ujarey Versus Union of India reported in (1999) 1 Supreme Court Cases 685. In the result, the petition of the petitioner is allowed. The impugned order is quashed. However, it is made clear that the respondents will not be prevented from initiating the enquiry after giving opportunity to the petitioner, may pass order on merit based on record in accordance with law. Parties are entitled for certified copy of this order.	Sd/- L.C. Bhadoo Judge

Barve

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